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COMMISSION ON HUMAN RIGHTS

Fourth special session

SUMMARY RECORD OF THE 2nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 24 September 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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LETTER DATED 9 SEPTEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (continued)

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The meeting was called to order at 10.10 a.m.

LETTER DATED 9 SEPTEMBER 1999 FROM THE PERMANENT REPRESENTATIVE OF PORTUGAL TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (agenda item 3) (continued) (E/CN.4/S-4/2)

1. Mr. ROWAN (Ireland) said Ireland welcomed the build-up of the operational capacity of the international force in East Timor and would be participating in that force. The international community should use all the means at its disposal to alleviate the suffering of the Timorese people and it was entirely appropriate for the Commission to concern itself with the grave situation there. He believed that the special session would bring a distinctive perspective to bear on the issue and augment and inform the discussions of the Security Council and the General Assembly.

2. The tragedy extended beyond the boundaries of East Timor and even beyond those of West Timor. The plight of those East Timorese who might have been moved elsewhere in Indonesia demanded urgent attention. It should not be forgotten that the gross violations of human rights described by the High Commissioner in her report had to be dealt with. It was essential for the Commission to help call the perpetrators to account and it was for that reason that the European Union's draft resolution referred to United Nations bodies that were competent to ensure that impunity would not be tolerated. The request made in the draft resolution for the General Assembly to review the Commission's discussions was also necessary in view of the gravity of the situation. Immediate action was needed. His delegation fully supported the High Commissioner's call for an international commission of inquiry, the only mechanism capable of establishing the truth and making recommendations for the future.

3. He paid tribute to the work of the International Committee of the Red Cross (ICRC) and the Office of the High Commissioner for Refugees (UNHCR), under extremely difficult conditions. Safe access by humanitarian agencies to those places where they were urgently needed was the most immediate question with regard to displaced persons and refugees. His Government had agreed to provide assistance for emergency relief and reconstruction, which would be coordinated with other donors, under United Nations leadership. Many victims were beyond the reach of humanitarian organizations, a problem that had to be addressed while ensuring aid workers' safety.

4. In belatedly coming to terms with the situation in East Timor, where credible and resolute action was needed to end suffering and injustice, it was important to acknowledge that humanitarian crises elsewhere had not yet been adequately addressed.

5. Mr. RODRIGUEZ CEDEÑO (Venezuela) said that Venezuela had supported the convening of the special session in the belief that the international community and the Commission in particular should consider urgently any serious situations affecting the full respect for human rights anywhere in the world. Not only that, but it was essential to support the process that had begun with the referendum on the future of East Timor and the Indonesian Government's efforts in the face of the current situation.

6. He deeply regretted the loss of life and suffering and the mass displacements of people, separations of families and destruction of property. Venezuela was extremely concerned at the fate of the 250,000 internally displaced persons and the further thousands who had left the country, as well as the violence against United Nations personnel and other participants in a humanitarian action fraught with difficulty.

7. His delegation hoped that the meeting would reach objective and balanced conclusions that took into account the need to protect the population of East Timor and humanitarian workers and to ensure that human rights violations did not go unpunished, without exacerbating the situation. Cooperation between the United Nations and the Government of Indonesia was indispensable and he welcomed Indonesia's acceptance of such cooperation. In order to improve the situation, it was essential to establish and reinforce assistance to and cooperation with the Government of Indonesia and to ensure the invaluable participation of UNHCR. He trusted that the Commission members would show the flexibility required to arrive at a decision by consensus.

8. Mr. SKOKMO (Norway) said that Norway fully supported the High Commissioner's conclusions on the human rights situation in East Timor. Norway deeply regretted that the Indonesian Government had failed to provide security for the East Timorese people before, during and after the referendum on 30 August. It expected Indonesia to facilitate an orderly transfer of power to an independent East Timor.

9. Norway strongly condemned those responsible for the shocking violations of human rights and international humanitarian law in East Timor. It remained concerned about reports that elements of the Indonesian army had been involved in the militias' campaign of terror and called for those allegations to be investigated. Acts of violence and intimidation had also been directed against local and international United Nations staff and against international observers, humanitarian workers and journalists. The looting and burning of ICRC offices and the forcible removal of ICRC staff from their compound by militias and the Indonesian army had been a shocking event.

10. His delegation hoped the special session would call for the establishment of an international commission of inquiry into the human rights violations. Norway expected those responsible to be brought to justice and welcomed the Indonesian Government's efforts to address those issues. The special session should also encourage Indonesia to facilitate visits by the special rapporteurs on extrajudicial, summary and arbitrary executions, on torture and on violence against women, as well as by the Special Representative of the Secretary-General on Internally Displaced Persons. Lastly, the Indonesian authorities must secure the safety of East Timor refugees in West Timor and other parts of Indonesia and the access of aid agencies to those in need, and ensure that refugees had the right to choose where to stay, including safe passage back to East Timor.

11. Mr. MORJANE (Tunisia), speaking on behalf of the African Group, said that the Group's main concern was to ensure respect for human rights throughout the world. It was deeply concerned at the seriousness of the human rights situation and the violence in East Timor, and at the problems faced by humanitarian workers. The African Group welcomed the Indonesian Government's

commitment to cooperate with the international force. Law and order must be quickly restored and all acts of violence and forcible displacements of the population should cease forthwith. Human rights violations must not go unpunished and he welcomed the recent statement by Indonesia's Minister for Foreign Affairs to the effect that it might be best for the National Human Rights Commission to make the necessary investigations with the help of experts of the United Nations Commission on Human Rights.

12. The African Group considered that the special session should avoid confrontation and arrive at a negotiated and agreed outcome, in a spirit of cooperation and mutual understanding, since in that way the Commission would make an effective contribution to the desired reconciliation.

13. Lastly, the African Group found it regrettable that the international community continued to apply double standards in dealing with major issues, paying greater attention to some regions than to others.

14. Mr. NASCIMBENE DE DUMONT (Argentina) said that her country strongly condemned the gross violations of human rights in East Timor, particularly the abuses committed against women, and the complete disregard for humanitarian law represented by the actions carried out against the members of UNAMET and the personnel of humanitarian organizations such as the ICRC. As a member of the Security Council, Argentina had voted in favour of resolution 1264. In addition, her country was ready to contribute a contingent to the international force in East Timor.

15. Her Government had nevertheless experienced a degree of concern at the holding of the special session, in view of Argentina's dual responsibility as a member of both the Commission and the Security Council. At the present moment it was particularly important to strengthen the multinational forces in East Timor and at the same time strengthen the democratic process in Indonesia begun by President Habibie. To delay doing so was to risk even worse human rights violations. Her delegation therefore welcomed Indonesia's commitment to investigate the events and urged it to work with UNHCHR to that end.

16. Lastly, she called for a constructive attitude and a result based on consensus, which would be more likely to move the human rights situation in East Timor forward.

17. Mr. MIRGHANI (Sudan) said that Sudan had had serious reservations concerning the special session, partly for procedural reasons and partly because, as other delegations had also pointed out, its objectives were not clear, given that both the Security Council and the General Assembly were considering or planning to consider the situation in East Timor.

18. The situation was undeniably serious but the Indonesian Government had shown great responsibility in cooperating in efforts to normalize it and approving the results of the referendum. The Security Council delegation had been well received in Jakarta and in Dili, and the Indonesian Government had accepted the multinational force. It was also cooperating in a humanitarian capacity with the agencies there. He believed that the Indonesian Government should be praised for the courage it had shown in handling the disastrous situation in East Timor. President Habibie, in coordination with UNHCHR, had

set up a Committee to study the situation in East and West Timor. A rational approach was required in such a complicated situation and the international community needed the Indonesian Government's help in dealing with it. It was now a matter of producing positive results and ensuring that peace and stability prevailed as soon as possible.

19. Mr. VUTO BERNALES (Peru) said that Peru had supported the holding of the special session because the international community had a responsibility and obligation under human rights instruments and under all customary and peremptory international human rights law to promote and protect human rights throughout the world on a basis of universality, non-selectivity and non-discrimination.

20. The gravity of the situation in East Timor was compounded by the fact that the violence had flared up in reaction to the East Timorese people's exercise of their sovereign right to self-determination, a process monitored by the United Nations themselves. His delegation considered that there was no contradiction between the Security Council's provision for peacekeeping operations under the Charter of the United Nations and the Commission's duty to act within its own sphere of competence, namely human rights. Clearly the Commission's action would not duplicate but would be complementary to Security Council action. Human rights were an essential aspect of peace, the restoration of which involved the difficult task of repairing the social and spiritual fabric that had been damaged by violence. The fact that the Indonesian Government had requested the international force added an element of consensus that would strengthen the moral force and legal coherence of that action. That in turn should assist the Commission in its decisions.

21. Lastly, he endorsed the statement by the representative of the Holy See calling for the international community to act with a sense of urgency but also with responsibility, recognizing the moral value of understanding the truth about the serious events that had occurred. Any action the Commission agreed on should contribute to that understanding, and thereby to national reconciliation and social cohesion in an independent East Timor.

22. Mr. LERAIAN (Philippines) said that the Government and people of the Philippines regretted the human tragedy that had befallen East Timor. With its limited means, the Philippines had furnished financial assistance to East Timor and had contributed military and professional personnel to the international force. His country's participation was aimed at helping the Timorese people rebuild their lives in peace and dignity, in response to Indonesia's invitation to the international community to provide assistance. The Philippines had felt that, as a friend of Indonesia, it should come to the aid of that peace-loving country. Indeed, the existence of the Autonomous Region of Muslim Mindanao in the Southern Philippines was evidence of Indonesia's diplomacy and commitment to peace.

23. The outcome of the special session should improve and not worsen the situation in East Timor and any approach that did not take into account the efforts of the Indonesian Government would not be acceptable. The Philippines fully endorsed the initiative of the Indonesian Human Rights Commission to establish a fact-finding mission to investigate human rights violations in the wake of the popular consultation. The international community should support

and not undermine the national commission, in keeping with the general move toward strengthening national human rights commissions advocated by the Office of the High Commissioner for Human Rights. Only in a spirit of reconciliation could the peoples of Indonesia and East Timor live together harmoniously in the future.

24. Mr. MOOSE (United States) said that the United States had supported the call for the special session of the Commission on Human Rights in response to the crisis in East Timor, which had undermined the United Nations-sponsored free and fair vote and had jeopardized the prospects of a fully democratic and peaceful transition. The members of the Commission should seize the opportunity to strongly encourage the efforts of the Indonesian Government to pursue an effective investigation of the abuses and bring the perpetrators to justice, in order to ensure that such events did not reoccur in the future.

25. The United States fully endorsed the proposal to establish an international commission of inquiry to investigate the violations of human rights and humanitarian law and urged Indonesia to cooperate fully with that body, in order to document the abuses that had been committed since the agreement had been reached to hold a United Nations-administered popular consultation. It welcomed the Indonesian Government's decision to set up a national commission of inquiry, but stressed that it was indispensable to have the backing of a credible international investigative mechanism. It would also be desirable to have the collaboration of the Indonesian Human Rights Commission, appropriate local non-governmental organizations (NGOs) and distinguished jurists of the region.

26. The United States Government recognized the territorial integrity and sovereignty of Indonesia as well as the unique history of East Timor. It congratulated Indonesia on its courageous decision to allow the Timorese people to decide on its future status and hoped that the outcome of the popular consultation would be respected. The massive turnout and the overwhelming vote in favour of independence spelt hope for the world. However, the ensuing violence had triggered a humanitarian, human rights crisis, threatening the continuation of the important work being performed by the United Nations.

27. His Government welcomed the Indonesian invitation to host an international force and trusted that the authorities would give it their full cooperation, in compliance with the provisions of Security Council resolution 1264. Furthermore, the United States expected the Indonesian Government to honour its obligations, in keeping with national and international law, to protect East Timorese refugees and those forcibly displaced to West Timor, to disband and disarm the militias which threatened human life, to allow humanitarian organizations to have access to persons in need of assistance in West Timor, to facilitate the safe and speedy return of East Timorese to their homes and to cooperate in enabling the return of UNAMET staff and the resumption of their mission. If Indonesia was to become a prosperous, democratic and stable nation, and if the wounds of violence in East Timor were to be healed, the truth had to be determined and documented and perpetrators brought to justice in an attempt to create an atmosphere of peace and reconciliation.

28. Ms. VIVAS (Uruguay) said that the delegation of Uruguay welcomed the agreements signed between Indonesia, Portugal and the Secretary-General of the United Nations on 5 May 1999, on the basis of which the Timorese people had voted in favour of their independence at the end of August. On the other hand, her country condemned the grave violations of human rights and international humanitarian law committed against pro-independence activists, which could not in any way be tolerated by the Commission.

29. Her country supported the convening of the special session, so long as it coordinated its efforts with those of the Security Council and the Secretary-General to restore peace promptly and ensure that human rights were respected in East Timor. It was hoped that concrete action would be taken in favour of East Timor, which would not prejudice progress made by other organs of the system and which would take into account the positive attitude demonstrated so far by the Indonesian Government.

30. Mr. SIMKHADA (Nepal) said that he endorsed the views of the Asian group, already expressed by the ambassador of Sri Lanka, coordinator of the group, and wished to highlight a few procedural and substantive aspects of the current session. He recalled that his delegation's position on matters arising before the Commission had always been guided by the Nepalese Government's commitment to the promotion and protection of human rights, enshrined in the 1990 Constitution of the Kingdom of Nepal. The United Nations, the Commission on Human Rights and the Office of the High Commissioner for Human Rights were considered to be the vanguard of the promotion of human rights and dignity. Their roles could be strengthened only in a climate of trust and confidence, firmly based on the principles of the rule of law. Any environment that called into question the observance of such principles and the impartiality, transparency and accountability with which they should be applied by those institutions could only have a negative impact on their credibility and ability to perform.

31. Acts of violence and the murder of innocent people were always deplorable, whether they received media coverage or not. The Indonesian Government had agreed to cooperate with the international community to restore law and order in East Timor and to extend humanitarian assistance where needed. In the light of such willingness, coupled with the initiatives already taken by the United Nations Security Council, the Nepalese delegation remained unconvinced of the need for the special session. It should again be noted that the session had been convened without due regard for the unanimous views of the Asian region. Nevertheless, the Chairperson of the Commission had consistently exhibited fairness and objectivity in her duties since taking office and had the full support of the Nepalese Government, so long as proceedings were guided in an atmosphere of trust, transparency and consensus-building. It was sincerely hoped that the outcome would be acceptable and meaningful for all concerned.

32. Mr. GUEYE (Senegal) said that Senegal welcomed the convening of the special session of the Commission to study the human rights situation in East Timor. Furthermore, it appreciated the constant and resolute efforts of the High Commissioner in the promotion and protection of human rights. The holding of the special session reflected the need to recognize the Commission's responsibilities and the constant contribution it must make to

strengthening human rights. Senegal fully supported efforts to that end and was convinced that the Commission was the ideal forum for evaluating human rights situations around the world, despite some shortcomings.

33. There was no doubt as to the firm commitment and goodwill of the Indonesian Government, as evidenced by the signing of the 5 May agreements, the holding of the referendum, the presence of a multinational force in East Timor, and indeed the very participation of Indonesia in the special session, despite the reservations expressed by the Asian group with regard to procedures. Senegal hoped that the outcome of the session would bear the seal of mutual understanding, openness and a positive attitude towards improving the situation in East Timor.

34. Mr. CHIRIBOGA (Ecuador) said that one of the most significant phenomena of the century, which had largely shaped the international community, was the reporting of important global events by the mass media. International newscasts often carried stories of disturbing events, omitting reports of human achievements. That was because alarming situations called for attention and assistance. When it appeared that humanity had reached the limits of violence, there always emerged some new opportunity for ungodliness and abuse. At the dawn of a new millennium, with many celebrations in preparation, talk of possible computer failures and new plans for economic growth, human beings were obviously still unable to control their passions and convert solidarity into international action in order to put reason and tolerance before selfish interests.

35. The world was dominated by force. Extravagant consumerism contrasted with widespread shortages, and no effort was made to counteract the negative effects of the market economy. The time had come, however, to act and the suffering of the East Timorese people had to be eased. Ecuador believed in the rule of law, due process and the application of appropriate jurisdictions. But human law was not infallible and thus required transparency. Ecuador had no illusions about what the Commission could accomplish in East Timor; human institutions reflected human limitations. Nevertheless, any decision taken by the Commission should recognize the principles of goodwill and collaboration with the parties involved in the crisis.

36. People with a free conscience did not need to fear the investigation of events for which they felt no blame. Only the truth could set people free. Consequently, in addition to the prevailing legal provisions in Indonesia, the international community should establish mechanisms to apply the rule of law impartially, to fight impunity and to promote respect for human rights. Ecuador was confident that understanding could be reached. Perhaps East Timor would provide the opportunity for the world to take leave of a terrible century by undertaking reasonable, concerted and ethical action.

37. Mr. DA SILVA (Mozambique) welcomed the results of the popular consultation held recently in East Timor under the auspices of the United Nations. Over the past 20 years, Mozambique had sheltered East Timor patriots and had often indicated in international forums that East Timor figured high on Mozambique's foreign affairs agenda.

38. The deterioration of the situation following the popular consultation clearly demonstrated the shortcomings of the Indonesian Government in complying with the 5 May agreements signed with Portugal and the United Nations to maintain law and order. The success of the United Nations Mission in East Timor (UNAMET) depended, to a large extent, on the cooperation of the Indonesian Government. Recent calls from President Habibie to the Indonesian people to respect the choice of the East Timorese people were encouraging. Mozambique was also pleased with the statements made by the East Timorese leader, Mr. Gusmão, calling for peace, reconciliation and tolerance within the country and with their neighbours, including Indonesia. Consequently, Indonesia should be allowed to participate in all measures relating to humanitarian assistance as well as the documentation of human rights violations in East Timor. Mozambique for its part was preparing to send additional personnel to participate in UNAMET and would do its best to ensure that the fundamental right to self-determination, as expressed by the East Timorese, would be respected.

39. The way forward lay through a common pledge and action by the international community, especially to provide humanitarian assistance and development aid. Mozambique was willing to share its own experience with East Timor. It was hoped that the session would result in the commitment of the Commission and other United Nations bodies to assisting East Timor in human rights, capacity-building and development assistance in an atmosphere of tolerance and reconciliation.

40. Mr. SALAMA (Egypt) said that Egypt had always supported joint international action to deal with global concerns and was aware that the international community could not remain indifferent to human rights violations. However, all international joint action must respect legal norms, including limits to the competence of United Nations bodies. All possible means of cooperation should be exhausted before alternative solutions were sought to any humanitarian crisis requiring intervention. For that reason, Egypt was pleased with the positive measures introduced by Indonesia, such as the holding of the referendum, the admission of the international force in keeping with Security Council resolution 1264, and the agreement to set up an international commission of inquiry. Egypt also welcomed the interest displayed by the international community in the East Timor crisis with the view to establishing peace, freedom and respect for human rights.

41. However, any recommendation ensuing from the session should be guided by specific criteria. Firstly, the content of the recommendation should be international in scope, especially in relation to the commission of inquiry. Any measures recommended should supplement domestic measures rather than replace them, unless, of course, the Indonesian authorities were unable to assume their responsibilities. Secondly, measures should be technical and not political in nature, which was why Egypt was pleased with the High Commissioner's proposal of assistance. Thirdly, with respect to the means of implementation, it was essential for the Commission to employ existing mechanisms in order to strengthen human rights. Fourthly, regarding the method of work and scope of the recommendations, human rights institutions should act without encroaching on other spheres of competence, so as to strengthen their credibility and avoid them being accused of politicization, which would only undermine human rights activity.

42. Egypt urged all concerned to respect those criteria and to operate on the basis of consensus and full cooperation with the Government of Indonesia. Indeed, consensus would determine the success or failure of the session and would demonstrate that the Commission had ensured respect for human rights in East Timor.

43. Mr. ZORE (Slovenia) said Slovenia welcomed the convening of the special session. The Commission's work was one part of a broad approach to halt the violence that had erupted since the elections, which was deplorable and had to be stopped. The perpetrators of such despicable acts must be held individually accountable, and no effort should be spared in bringing them to justice. Slovenia had joined the other members of the Security Council in authorizing deployment of the multinational force in East Timor. It was hoped that the Indonesian authorities would, working with the multinational force, restore law and order as quickly as possible so as to allow for a steady transition towards independence.

44. The Government of Indonesia should provide unhindered access to humanitarian assistance, protect humanitarian personnel and allow the displaced population to return home safely. All the signatories of the 5 May agreements had committed themselves to full implementation of their provisions, including the peaceful and democratic implementation of the will expressed by the people of East Timor.

45. Ms. MEIER (Liechtenstein) said the High Commissioner for Human Rights was to be commended for convening the meeting and for her other efforts in connection with the crisis, and the countries donating troops for the multinational force deserved an expression of gratitude. Notwithstanding those efforts, the United Nations had a special responsibility to prevent large-scale, indiscriminate violence against civilians, and unfortunately it had lost an opportunity to discharge that mandate. The last special session of the Commission had taken place in 1994, during and after the genocide in Rwanda, another case in which the international community had regrettably missed the warning signals.

46. The Commission should adopt a text by consensus, perhaps as a statement read out by the Chairperson, as an appropriate and strong message in support of the right of the people of East Timor to live their lives in peace and to exercise their expressed will to become independent. The text must underline the importance of accountability. Those who had ordered or committed atrocities should be held individually responsible for them. It should also refer to humanitarian assistance. The percentage of people in urgent need was nearly unprecedented. United Nations agencies had done commendable work, and the United Nations High Commissioner for Refugees had delivered an important statement to the Commission. Unrestricted access to all displaced persons in both East and West Timor was urgently needed, and it was only fitting that the Commission should appeal to the Government of Indonesia to ensure its cooperation. All displaced persons must be allowed to return home safely and without delay. It was hoped that the special session would help create a climate conducive to peace, stability and prosperity in the region.

47. Mr. VIGNY (Switzerland) expressed his delegation's extreme concern regarding the violence unleashed since the announcement of the referendum

results. It was still difficult to assess the damage done by human rights violations to the international community's efforts to ensure respect for the will of the people of East Timor. The inability or unwillingness of the security forces to halt the violence had led to the death of thousands and the exodus of tens of thousands of people. The Fourth Geneva Convention, which protected civilians and prohibited deportation and the destruction of public and private property, had been flouted, and the work of the International Committee of the Red Cross (ICRC) had been deliberately impaired. The Red Cross emblem had not been respected and ICRC delegates had received numerous death threats. The militias had repeatedly attacked UNAMET itself.

48. East Timor had become the scene of a terrible human tragedy, which was depicted in the report issued by the High Commissioner for Human Rights following her visit to Indonesia. It was only fitting that the United Nations should focus on events there. In recent years the international community had increasingly come to accept the idea that it had a responsibility to protect and whenever possible assist victims of gross violations of human rights, and to hold accountable those responsible for such acts. That had been a positive development, and one which was confirmed in the propcsal recently put forward by the United Nations High Commissioner for Human Rights to establish an international commission of inquiry for East Timor. Such a commission was badly needed to fight the risk of impunity, and its establishment was a legitimate step. The Vienna Declaration and Programme of Action of 1993 stated that denial of the right of self-determination was a violation of human rights, and that effective international measures should be taken in support of the rights of people under foreign occupation, in accordance with human rights norms and international law, and in particular the provisions of humanitarian law.

49. The Swiss Government considered that the intervention of the multinational force was the main factor which could make it possible to provide humanitarian assistance, to restore peace and security and to establish a basis for respect for human rights. It had therefore contributed 500,000 Swiss francs to the trust fund for the International Force for East Timor (INTERFET), and had allocated contributions in the same amount to support activities of ICRC, UNHCR and the World Food Programme (WFP) in East Timor. Switzerland was also making human rights observers available to work in UNAMET.

50. Ultimate responsibility for restoring stability, peace and security lay, however, with Indonesia, which should guarantee the physical and moral integrity of the refugees, meet their need for humanitarian assistance and allow their return home. Impartial humanitarian organizations should be ensured free and unlimited access to East Timor. The only way to find a lasting solution would be by working hand in hand towards the common objective of defending human rights in all senses of the term.

51. Mr. LUCK (Australia) said his Government appreciated the opportunity provided by the special session to address the serious human rights situation in East Timor. It had, at the Commission's session in April 1999, expressed concern about social tensions which had erupted in different parts of Indonesia, while highlighting the many positive developments in the country's human rights record. On that occasion it had encouraged all parties involved

in the situation in East Timor to look forward rather than back, to consolidate human rights and to build confidence. Australia welcomed the historic ballot resulting from the tripartite agreement setting out modalities for popular consultation. Regrettably, it had also had to express its dismay and concern at the collapse of law and order that had followed. The international community's response, embodied in Security Council resolution 1264, was made possible thanks to Indonesia's readiness to accept an international peacekeeping force to assist in restoring peace and security in East Timor. Australia, appalled by the violence and seized of the need for it to stop, had acceded to the request of the United Nations Secretary-General to lead that force.

52. In its resolution, the Security Council had stressed that the perpetrators of human rights violations bore individual responsibility, and demanded that they be brought to justice. The High Commissioner for Human Rights had concluded in her report drawn up following her visit to Indonesia that there was overwhelming evidence of systematic, gross violations of human rights in East Timor, and strongly condemned those responsible. She had also urged the Indonesian authorities to cooperate in the establishment of an international commission of inquiry. Australia acknowledged the Indonesian Government's recent announcement that it would establish a national fact-finding commission for post-ballot human rights violations in East Timor.

53. A coordinated and broad United Nations response was called for, based on Security Council resolution 1264. The High Commissioner's proposals and the convening of the current special session should be seen in that light. Australia stood ready to cooperate fully with any investigation into human rights abuses, and to do whatever was required to hold violators of human rights to account for their actions.

54. Mr. DA COSTA e SILVA (Angola) said his delegation associated itself with those who had condemned the terrible acts of violence committed in East Timor. The creation of an international commission of inquiry as proposed by the High Commissioner in her report warranted support. The international community should not encourage impunity. There was no incompatibility between the establishment of such a commission and the operations of the multinational peace force. Angola had no objection to the designation of a special rapporteur for East Timor, as the special rapporteur's work could play a complementary role to that of the commission of inquiry.

55. The humanitarian situation in East Timor was disastrous following the looting, fires and destruction. Women, children and the elderly had been completely dispossessed and were vulnerable to famine and to the elements. It was therefore hoped that the Government of Indonesia would continue to cooperate with the United Nations and the international community, so as to give the people of East Timor the peace and freedom for which they had so long suffered. The Angolan delegation fully supported the draft resolution proposed by the European Union.

56. Mr. FARRELL (New Zealand) said the people and Government of New Zealand had been shocked by the events in East Timor, which involved a deliberate attempt to sabotage a process sponsored by the United Nations and to which the Indonesian Government had agreed. There was no question that elements of the

Indonesian security forces were complicit in the violence. A mechanism should be established to investigate human rights abuses in East Timor, hopefully with the cooperation of Indonesia, and if possible with a constructive contribution from Indonesia's own Human Rights Commission. The report of the future commission of inquiry should be made available as soon as possible so that the Security Council might consider appropriate action. The various special mechanisms of the United Nations Commission on Human Rights should act collectively in investigating the situation in East Timor and draw up a comprehensive report covering their distinct but interrelated subject areas. Those who were responsible for human rights violations must be brought fully to account.

57. The events in East Timor should not, however, be allowed to detract from the international community's support for the far-reaching progress made by the Indonesian Government toward democratization and respect for human rights. The Government of New Zealand commended President Habibie for asking Indonesia's legislators to endorse the referendum, and welcomed the establishment by Indonesia of its own commission of inquiry. The Indonesian Government's pledge to cooperate with humanitarian organizations assisting the displaced was also commendable. There had been reports of militia activity in West Timor, where about 140,000 East Timorese had taken refuge. Indonesia was therefore urged to ensure unrestricted access for international agencies and to protect both the refugees and those providing assistance. Above all, the right of those refugees to return freely to their homes must be upheld.

58. Mr. RAJA NUSHIRWAN (Malaysia) said his delegation fully associated itself with the statements made by Sri Lanka on behalf of the Asian Group and by the Philippines on behalf of the Association of South-East Asian Nations (ASEAN). Given the close, brotherly relations between Malaysia and Indonesia, the Malaysian Government felt compelled to speak as a concerned party.

59. The subject of East Timor had been dealt with comprehensively and usefully in the Security Council, and because the Indonesian Government had expressed its willingness to cooperate with that body, the matter would best be left there. Indonesia had demonstrated its willingness to work with various United Nations bodies, including those dealing with human rights, in addition to its commitment to domestic reform. Further insistence by the international community could only be counter-productive. In addressing the situation in East Timor, the international community must bear in mind its effect on regional stability and security, its impact on the democratic reforms under way in Indonesia and the views of the region concerned. The 5 May Agreement lay at the heart of the discussions on East Timor. That Agreement must be implemented fully and by all parties. The outcome of the consultation must take into full consideration the views of the Indonesian Government, must be agreed by it and must respect the territorial integrity of that country.

60. The Malaysian Government was dismayed that the current Session had been convened with so little transparency and impartiality. Much damage had been done to the spirit of cooperation which had existed between member States and the Office of the United Nations High Commissioner for Human Rights.

61. Mr. BELO (Franciscans International) said that speaking as the apostolic administrator of the diocese of Dili, he wished to thank the Commission for its expression of solidarity with the people of East Timor.

62. Following the 30 August referendum, the militias and the military had immediately taken revenge on the population, after it had voted massively in favour of self-determination. In one such act of revenge, on 5 September 1999, his diocesan office housing displaced persons had been attacked and destroyed and 25 persons had been killed. The next day, his episcopal residence in Dili, in which some 4,000 persons had taken refuge, was attacked and destroyed by the militias and the army. He had been forced to leave, and had seen that many innocent people had been abused, beaten or killed. Timorese men had been removed and forcibly deported from their homeland.

63. The Commission should establish an international commission of inquiry to investigate the crimes committed against innocent women, children, the elderly and those struggling to maintain their historical, cultural and religious identity. It was deplorable that at the end of the century, after the fiftieth anniversary of the Universal Declaration of Human Rights, such acts could still occur in East Timor. He, his colleague, Bishop Nacimento, and the entire Catholic community of East Timor would be extremely grateful if the Commission on Human Rights would establish a commission of inquiry.

64. Mr. ZOLLER (International Service for Human Rights) said that his organization was appalled by the debate which had marked the beginning of the special session. A representative of a large Asian country had even made reference to the "rules of the game". What was being discussed was not a game but a massacre. Had the testimonies which NGOs had given to the Commission since 1982 been taken seriously, giving rise to effective and serious preventive measures, many lives would surely have been saved. The Indonesian Government had for years taken advantage of its position as a member of the Commission to deny the existence of concentration camps, to refute reports of massacres, to ignore its latest commitments and to repeat its lies, while the Commission itself had sought a consensus with the very people responsible for those crimes. In 1997 the Asian Group had achieved what some of its members considered a victory when Nobel Laureate José Ramos Horta had actually been prevented from addressing the Commission.

65. East Timor was paying the very dear price of the laxist attitude adopted by most of the States represented on the Commission. It was hoped that the tragedy taking place there would serve to bring about a revolution in the culture of the Commission, so that it would take decisions on the basis of human rights instead of its members' economic or strategic interests - a revolution capable of relegating the doctrine of non-interference to its rightful place in relation to the international obligations of States. In the case of East Timor, referring to authorization by Indonesia brought up a legal problem, as the occupation of the territory was itself illegal. The question was rather how to bring an occupier to cooperate following a legitimate vote for independence.

66. The tragedy was not yet over. The Commission should establish an effective mechanism for international inquiry, with periodic reports to

both it and the General Assembly, while supporting the efforts of the Security Council and the Secretariat to establish an international criminal tribunal for East Timor. The rapporteurs, experts and commissioners who would be visiting the territory should be able to submit their first reports by the end of October 1999.

67. Looking to the future, there too an ounce of prevention would be better than a pound of cure. A long-term human rights programme for East Timor was required in order to establish a State based on the rule of law. In the name of all those who had been expelled, tortured, raped, mutilated and killed for 25 years, the Timorese people, who had seen their numbers reduced by one third, should be able to invoke Asian values, which were in keeping with the universal values espoused by the United Nations. To suggest that the barbaric savagery to which they had been exposed was representative of Asian values would be an insult to the peoples of that region.

68. Mr. MONOD (War Resisters International) said his organization was dismayed by the events in East Timor, further proof that armies, instead of protecting civilians, posed a threat to them. While terror was allegedly being spread by separatist militias, they could only do so with army support. The pretext for an army presence in troubled regions was to crush terrorism, yet every year the Commission received complaints from peasants pleading to be freed from the so-called protection of soldiers who raped, killed and looted.

69. For States, terrorism was the act of armed anti-government gangs that resorted to violence. Helder Camara, Bishop of Recife in Brazil, had rightly condemned as the prime form of violence that was committed by the State itself, in neglecting and discriminating against a population of different culture, race and traditions. That provoked a second form of violence, with the population resorting to rebellion and the use of weapons to express its plight. The third form of violence was then used by the army to terrorize the rebels.

70. When East Timor had called for its independence, Indonesia had sent in its army to "protect" the population from alleged terrorists, seizing the opportunity to occupy the country and imposing its own reign of terror under cover of the militias. The fragile respite granted by the elections had been shattered by the violence unleashed once the results had been announced. The militias received logistic and financial support and arms from the Indonesian army. Rather than inundate the country with foreign troops, it would be better to cut the militias off from that logistic and financial support and find them work. Instead of more armies, East Timorese needed jobs.

71. Mrs. BELLAMY (International Confederation of Free Trade Unions (ICFTU)) said that her organization's 124 million members applauded the holding of the special session, which it had long advocated, as well as the presence of an international peacekeeping force in East Timor. She also commended the massive commitment to the cause by affiliated trade unions throughout the world, which had brought pressure to bear on Governments, the Indonesian authorities and the international community by means of demonstrations and, in many countries, direct trade-union action against Indonesian diplomatic, economic and trade interests. She lauded the courage of the many Indonesians who, refusing to adhere to the murderous policy unleashed in East Timor, had

supported the movement and condemned the many breaches of their basic rights by the Indonesian authorities. At a time when brutal reprisals were being exacted in East Timor, ICFTU fervently supported the appeal by the United Nations Secretary-General to set up an international commission of inquiry to investigate events there. The massive slaughter, forced displacements and destruction of property and infrastructure could not be allowed to go unpunished. ICFTU also supported the establishment of an international criminal court for East Timor to hear cases of crimes against humanity, war crimes and any form of genocide, if the international commission of inquiry should so recommend.

72. Meanwhile, the international trade union movement would continue its protest against the latest acts of violence and the forced transfer of civilians to West Timor and elsewhere. It had invited its members worldwide to urge their Governments to contact their ambassadors in Jakarta to seek permission to visit all camps where East Timorese civilians were detained. Concerted international action was more urgent than ever before. Agencies, including UNHCR, had furnished evidence of the militias' grave abuse of displaced persons in detention camps. Most alarming was the allegation that men had been separated and taken to unknown destinations on the basis of lists of names drawn up by the Indonesian armed forces.

73. Given the Government's declared intention to relocate internally displaced persons (IDPs) to Indonesia as "transmigrants", ICFTU invoked Security Council resolution 1264 instructing the Indonesian authorities to provide for refugees' safe return to East Timor, which had been patently violated by the policy announced by the Minister for Transmigration, in an explicit Government admission of its intention to depopulate the territory. The world's trade unionists demanded that displaced persons be allowed to return to East Timor when circumstances permitted, and that they meanwhile be assigned international protection to ensure respect for their basic human rights, including the right to freedom of movement enshrined in article 13.2 of the Universal Declaration of Human Rights.

74. ICFTU further urged all Governments to declare publicly their immediate recognition of the independence of East Timor and to do all in their power to ensure that it received humanitarian and reconstruction aid. In that connection, ICFTU would help East Timorese workers form a democratic, effective trade union movement, and continue its campaign to defend trade unions and human rights, including in East Timor and Indonesia.

75. Ms. SCHERRER (Amnesty International) said many of the massive and widespread human rights violations perpetrated by militias - with the acquiescence if not the participation of the Indonesian security forces - had not been publicized owing to lack of access. The tragedy had spread to West Timor, where East Timorese militia were operating with impunity. UNHCR and international humanitarian organizations had little or no access to tens of thousands of East Timorese living in precarious conditions - many in camps - in West Timor, where the militia sought out and intimidated pro-independence supporters.

76. She urged the international community not to repeat its failure during the transitional phase to fulfil its obligation to protect the East Timorese

people under the 5 May agreements. Her organization recommended a set of measures to be taken by the Commission on Human Rights at its current special session. It should call upon the Indonesian authorities to grant humanitarian agencies and independent monitors immediate and unconditional access to IDPs in East Timor and refugees in West Timor and elsewhere and explicitly guarantee their security. It should allow East Timorese non-governmental organizations (NGOs) and journalists to return to their posts in safety. Pending investigation, it should immediately suspend from duty and withdraw from East Timor all Indonesian army commanders with military responsibility in East Timor allegedly implicated, by commission or omission, in violations of human rights or intefnational law. It should immediately and unconditionally release all persons arbitrarily detained in breach of international human rights standards and humanitarian law.

77. Furthermore, it should call on the Security Council, which was best placed to do so, to create, maintain and support a committee of experts to gather evidence of violations in both sections of Timor with a mandate to make recommendations for establishing individual responsibility for international crimes and prosecuting the perpetrators, through an international criminal tribunal. Lastly, the Commission should call on its experts who had recently issued a joint statement to visit East and West Timor as soon as possible.

78. Ms. NUNES (France Libertés), recounting her two-month experience as an electoral observer of the referendum on East Timor's independence, said that in Maliana, even before the elections, uniformed militia groups trained by the Indonesian police and armed forces had marched through the streets, unimpeded by the police, spreading terror among the civilian population, who had expressed deep fear and pleaded with the observers not to abandon them. Faced with widespread arson and murder, some had been forced to flee to the hills. And yet, on voting day they had displayed remarkable courage and civic responsibility by responding to the United Nations call to the polls. In Baucau, while there had been less pre-election violence, fierce violence had erupted after the elections and the town of Manatuto had been razed to the ground. Thousands of Timorese had been willingly or forcibly evacuated. Men had often been separated from their wives and children and could no longer be traced. On top of shortages of food and water, security was a prime concern, since the camps were patrolled by militiamen in pursuit of anyone suspected of voting for independence.

79. Because Timorese, despite threats and intimidation, had gone to the polls on the strength of promises made to them by UNAMET in the name of the international community, the international peacekeeping force in East Timor needed to be effectively extended to the Indonesian portion of Timor and all islands to which Timorese had been deported, in order to restore security. Despite the Indonesian authorities' promises to the Working Group on Arbitrary Detention, only one political prisoner, Xanana Gusmão, had been released. Despite their promise to the Special Rapporteur on violence against women, none of those accused of rape had been punished, nor had any reparation been made to the victims. Summary executions and involuntary disappearances were reported by the thousand.

80. In order to verify the facts, national and international human rights organizations, the Special Rapporteurs and the Commission's Working Groups

should be given free access to all Timorese without exception. The future could only be guaranteed through the protection of those still under threat and the reporting of reprisals. The crimes committed justified setting up an international criminal tribunal. Inaction by Governments or international organizations served the cause of neither appeasement nor peace. The new State of East Timor could not live under constant threat from its neighbour. Nor would Indonesia find either peace or democracy if it refused to punish its criminals. East Timor could not wait. It needed to know not only the whereabouts of its deportees, its "disappeared" and its political prisoners who should have been freed, but also who had killed, tortured and raped their sons and daughters.

81. Mrs. PANDIT (International Commission of Jurists (ICJ)) urged States to rise above petty political differences in order to suppress impunity and restore the rule of law in East Timor, in the face of persistent and gross human rights violations committed as a means of depriving its inhabitants of self-determination. Her organization called upon the Secretary-General to establish an impartial commission of experts to examine and analyse the situation with the help of other bodies. Although laudable, Indonesia's suggestion to conduct an international inquiry was not entirely credible. The guilty should be held individually responsible for their actions and brought before an impartial international tribunal.

82. The ICJ called upon INTERFET and the Indonesian authorities to facilitate the safe return of all IDPs, refugees and forcibly displaced persons, to compensate them adequately, and to facilitate access to them by UNHCR and other humanitarian bodies. It called upon the international community firstly to suspend forthwith all economic assistance and logistical support to Indonesia until the country's anti-independence militias and armed forces ceased their human rights violations in East Timor, secondly to recognize and establish diplomatic relations immediately with the State of East Timor, and thirdly to set up a fund to assist the survivors of atrocities and help them in their transition to independence.

83. The ICJ wholeheartedly supported the initiatives taken by its Australian and Portuguese sections to combat impunity. The former was requesting the Portuguese General Public Attorney to initiate criminal proceedings in Lisbon against a number of Indonesian generals and militia chiefs, in the light of United Nations General Assembly resolutions 1542 and 2625, which confirmed that East Timor, including its administration of justice, fell legally under Portuguese administration. The latter, supported by its Bar Association and law societies, had begun collecting evidence of crimes against humanity from East Timorese refugees, which would be submitted to any United Nations-initiated inquiry. In conclusion, she urged the international community to expedite the process of ratification of the Rome Convention on the establishment of an international criminal court.

84. Mr. NASHIDIK (Indonesian Association for Legal Aid and Human Rights), also speaking on behalf of the Lutheran World Federation, said that his organization, together with others in Indonesia, had called for the establishment of an ad hoc international tribunal to judge crimes against

humanity and genocide in East Timor since its annexation by Indonesia in 1976. It endorsed the suggestion of the United Nations Commissioner for Human Rights to set up a commission of inquiry.

85. The special session of the Commission was a unique opportunity to break the cycle of State and military impunity in Indonesia and encourage the full flowering of democracy and human rights. He therefore urged it to fulfil its obligations to the victims of human rights violations that had followed the free and fair United Nations-brokered referendum, in which the East Timorese had voted overwhelmingly for independence. The Indonesian army and its affiliated militia had used force to try to predetermine the outcome of that referendum, through the sacking of Dili, the withdrawal of UNAMET and other international agencies, wanton killings, terror and forced displacements, in defiance of its President and basic United Nations principles. Pursuant to Security Council resolution 1264, he called upon the United Nations to take immediate action to provide for the security of some 200,000 East Timorese displaced to West Timor and ensure their freedom to return home.

86. The conflict amounted to civil war. While Indonesia had done its best to maintain law and order, an undemocratic political system had subjected the East Timorese people to extreme State-sponsored violence. Indonesia should not be allowed to conduct its own investigations. That was a task for the United Nations. The events in East Timor were but an example of the widespread abuse of military power in Indonesia and a warning of the reassertion of power by a military humiliated by its failure in East Timor and the exposure of its human rights record. If Indonesians were to enjoy all the human rights to which they were entitled, the Commission should help their civil society end the impunity and domination of the military. The United Nations should provide witness protection and should assist in all aspects of the reconciliation process. In conclusion, he praised the dignity of the East Timorese, epitomized in their pro-independence leader, Xanana Gusmão, who had refused to take up arms, thus avoiding the trap set by the Indonesian military.

The meeting rose at 1 p.m.